

## **Statement of the Foreperson of the Grand Jury**

Jan. 13, 2003 – May 9, 2003 Term

Reporting on behalf of the Grand Jury, the privilege and duty of serving as an important function of our justice system has been a life-changing experience. We have acquired new perspective and knowledge of the law as it exists in Maryland and a better understanding of the processes used to determine the guilt or innocence of a defendant. Included in this knowledge is the comprehension of the difference between “probable cause” and “beyond reasonable doubt,” which required a fair amount of discussion and guidance from the lecturers that spoke with us.

Visiting the crime lab at Police headquarters, the Medical Examiner’s office and Police Training Grounds (Gunpowder Range) allowed us to re-evaluate what is perceived through television and movies resulting in a more realistic understanding of law enforcement and investigative procedures. Extensive tours of the Maryland Penitentiary, Baltimore City Detention Center, Maryland Reception Diagnostic Classification Center and the Baltimore Pre-Release Unit allowed us to comprehend the incarceration and rehabilitation programs currently in place.

The diverse background and inquisitive nature of this Grand Jury assisted us greatly in our ability to define and question discrepancies and/or inconsistencies in the statements presented. This assured accuracy, allowing us to make true and just decisions regarding the indictments and true bills presented.

Overall, the attendance and commitment of the members of this Grand Jury have been very good. Absences were reported in advance, when possible. Moreover, members came to me to resolve internal conflicts and obtain answers to various questions that would arise. I earned respect by being sympathetic to personal needs and taking my role as foreperson very seriously. Certain members understood the Grand Jury’s role and how the law applies to our decisions more quickly than others. But, in spite of the frustration some jurors experienced, I witnessed a genuine collective willingness to bring the group, as a whole, up to speed.

As we approach the end of our term, certain ideas have come to light that might streamline the Grand Jury’s process and may even filter through to other areas increasing the efficiency and accuracy of the prosecution’s presentations. These suggestions are as follows:

- The scheduling of lectures from the different departments (i.e. Homicide, Arson, Sex Offence, Drug Enforcement) within the first 2 –3 weeks of the new Grand Jury’s term would greatly assist in providing the necessary knowledge required to make good decisions as to probable cause. During our term, we experienced an instance where we did not have a firm understanding of the law as it pertained to a case presented. Fortunately, it was not disastrous and justice still had the possibility to be served. However, the potential exists for such lack of information to allow a guilty party to go free.

- We found frequent inconsistencies between police reports and indictments resulting in indictments having to be retyped. This translates into time and money spent to resolve the discrepancies.
- Police reports seem to vary as far as attention to detail and accuracy, or lack thereof, making it difficult for someone else to relay the facts of the case to the Grand Jury. It is my opinion that a more standardized structure could be used. A consistent format of the police reports could be instilled in new recruits during training which could assist in collecting pertinent facts during and after an arrest, thereby cutting down on the time required to write reports and ensure a precise record.
- As stated in past Grand Jury reports, there is a concern about the reference to a defendants or witnesses' race. I realize that an accurate description should be part of a police report, however, by using a standardized form for the reports, these descriptions could be recorded in a separate area of the report allowing the description of defendants and witnesses to be left out of the presentation to the Grand Jury, thus avoiding prejudicial issues from influencing any decisions made.
- There is a well thought out public address system in the Grand Jury room that is presently inoperative. Repairing it would be of great benefit to those with hearing challenges and to presenters whose voices do not carry well.

In closing, we would like to extend our deepest thanks to Diane Walker whose extensive knowledge and continuous support have made our experience an everlasting memory that will continue to enrich our lives. Many of us will no doubt continue a friendship with Diane far beyond our term as many jurors before us have. We would also like to thank the honorable Judge Allen L. Schwait and Jury Commissioner Marilyn L. Tokarski for always being there to address any questions or concerns. Last but not least, thanks go out to Ms. Delores Hay and Ms. Linnie Brown who took over Diane's responsibilities in her absence.

We hope that future Grand Jurors have the same good fortune to perform their civic duty and come away with a new outlook on life as we all have.

Sincerely,

Clark J. Matthews  
Foreman, January 2003 Grand Jury  
Circuit Court For Baltimore City

GRAND JURY CHARGE  
JANUARY TERM 2003

Chief Judge Joseph H. H. Kaplan, Judge Schwait, Ms. Patricia C. Jessamy, State's Attorney for Baltimore City, Mr. Haven H. Kodeck, Deputy State's Attorney for Baltimore City, Court Officials, Officers of the Grand Jury and Ladies and Gentlemen of the Grand Jury, Good Morning.

My name is Althea Handy and it is my privilege and honor to welcome you to your service as members of the January 2003 term Grand Jury and to present you with your charge.

It is no secret that Baltimore has a serious drug problem. Our Mayor says drug addiction is "The crisis that is killing our city." Not only are the consequences devastating to the individuals who suffer from this disease and their families but it also contributes to the spread of disease and crime. The State's Attorney's Office statistics show that in 2001, 5,834 people were charged with felony narcotics violations in the City of Baltimore. This represented 56.21% of the total number of defendants charged for all felony crimes in the city. Last year there were approximately 5,867 people charged with felony narcotics violation which results in 51.20% of the total number of defendants charged for all felony crimes. And of course these figures do not reflect all of the other crime that is related to drugs, nor does it reflect the arrests for misdemeanor drug offenses.

As the result of his concern for this problem and its impact on the criminal justice system last term Judge Edward R. K. Hargadon charged the Grand Jury to learn about area substance abuse programs and make recommendations about alternative sentencing options. They were asked to assess available substance abuse treatment options to make

suggestions about ways in which the Court could better serve defendants with drug problems.

Last term the Grand Jury worked very hard on their charge and met with professionals in the legal, correctional and medical fields. They also met with recovering addicts. As a result of their work they produced a report with their findings and suggestions for further study. It is your charge this term to examine the September 2002 Grand Jury report and follow up on their findings. In particular you are asked to investigate what the report refers to as “a Continuum of Care for Substance Abusers in Baltimore City.” They suggest that resources can be saved by not duplicating services and that defendants with drug problems be provided with additional support such as transitional housing, mental health treatment and childcare. We cannot expect substance abusers to be successful when they return to the same environment where it all began unless they are provided with continued support and resources.

You will be provided with a copy of their report to assist you in this mission.

Thank you for your attention and I look forward to assisting you as you examine this important issue.

## CHARGE COMMITTEE REPORT

After many decades, the substance abuse epidemic has continued to pose an overwhelming threat to the security of all citizens of Baltimore City. The devastation caused by the physical imprisonment of Baltimore City's non-violent substance abusers mirrors the societal "imprisonment" of drug-free Baltimoreans. No one is untouched. Educators, politicians, legal officials, clinical technicians, the clergy, penal institute officials, community leaders, doctors and all other citizens as well as their families remain affected. The Mayor of our city calls drug addiction "the crisis that is killing our city."<sup>i</sup> And, indeed, there are many casualties of this drug war, and it is not just limited to citizens of Baltimore. In fact, 50%-75% of buyers are not City residents.<sup>ii</sup> Governor Ehrlich said, during his State of the State address, "we must work together to get nonviolent drug offenders out of jail and into treatment programs, where they belong."<sup>iii</sup>

The statistics surrounding the presence of substance abuse in Baltimore City are staggering. For example, today there are approximately 60,000 substance abusers in the city, primarily addicted to heroin and cocaine.<sup>iv</sup> With about 650,000 residents, this equates to about 9% of city residents needing drug treatment.<sup>v</sup> And Baltimore has the highest concentration of heroin use in the country.<sup>vi</sup> The costs to the city in crime alone are estimated to be over \$3 billion.<sup>vii</sup> In addition to the high costs of arresting, adjudicating and incarcerating these individuals, are the costs of unrealized tax revenues from people who would otherwise be engaged in legitimate employment.

Just as overwhelming as the public health statistics are the criminal justice statistics. According to the State's Attorney's Office, 5,867 individuals were charged with felony narcotics violations in the City of Baltimore in 2002.<sup>viii</sup> This represents 51.2% of the total number of defendants charged for all felony crimes.<sup>ix</sup> It is also estimated that at least 70% of all cases heard in the Circuit Court for Baltimore City were directly or indirectly related to drug abuse.<sup>x</sup> And these figures do not even reflect the arrests for

misdemeanor drug offenses. Further, approximately 90% of homicides in Baltimore are drug related.<sup>xi</sup>

Based on a 2000 report, the arrest rate in Baltimore for drug crimes was nearly triple the rate for other large U.S. cities, with heroin and cocaine arrests ten times the national average.<sup>xii</sup> According to a study by the Urban Institute, one-third of all inmates statewide are incarcerated for drug offenses.<sup>xiii</sup> This study also found that about 40% of arrested males and nearly half of arrested females test positive for heroin.<sup>xiv</sup>

Drug offenders also account for a large percent of Maryland's prison populations. In 63% of cases in Maryland in 2000 and 2001, Circuit Court judges sentenced the offender to a prison term.<sup>xv</sup> Even in cases involving a simple misdemeanor possession, a prison term was imposed for 54% of cases, with the length of the terms imposed being substantial.<sup>xvi</sup> For example, in 2001, 86% of offenders convicted of possessing cocaine were sentenced for an average term of two years.<sup>xvii</sup> The cost of simply housing each inmate is about \$23,000 a year.<sup>xviii</sup> In contrast, according to several of the treatment centers we spoke with, the cost of providing residential care for one client is approximately \$5,000 a year, less than one-fourth of the cost to house an inmate in a penal institution.<sup>xix</sup>

Viewed from both an economic and public safety standpoint, substance abuse treatment makes more sense than prison. For example, a 1994 study in California found that for every tax dollar invested in treatment, tax-payers saved \$7 in future crime- and health-related costs.<sup>xx</sup> A 1997 study by the RAND Corporation, a think tank, found that treatment for cocaine abuse is three times more effective than mandatory minimum prison sentences.<sup>xxi</sup> Similarly, in Baltimore the use of Drug Treatment Court boasts tremendous results. The recidivism rate for Drug Court is only 10%, versus the five-year recidivism rate of 40% for drug offenders who complete traditional probation.<sup>xxii</sup>

Given these facts, public opinion is shifting. While public opinion from the 1980's supported legislation on "get-tough-on-crime" measures, recent opinion polls have found

that America now favors addressing the causes of crime over strict sentencing by a margin of two-to-one (65% versus 32%).<sup>xxiii</sup> The opinion of many professionals, as well as the sentiment of private citizens of Baltimore, is that substance abuse is a public health and not a criminal justice problem.

The Honorable Judge Althea Handy has charged the January 2003 term of the Grand Jury to continue to investigate the available substance abuse treatment options and the ways in which the criminal justice system can better serve defendants with drug problems. In particular, Judge Handy asked us to investigate what the last Grand Jury's report referred to as a "Continuum of Care for Substance Abusers in Baltimore City."<sup>xxiv</sup>

During our investigations, the Grand Jury Charge Committee used various resources to research the specifics of Judge Handy's charge. We visited recommended treatment centers to learn about their usefulness and validity in the campaign against substance abuse, interviewed key professionals and laypersons to brainstorm viable solutions or alternatives which may alleviate the problems resulting from substance abuse, and researched reports and proposed legal reforms concerning the substance abuse dilemma.

In answering this charge we revisited some old ideas and tactics as well as reviewed fresh and innovative ones. The serious problem of substance abuse demands as many investigative, brainstorming, and information gathering studies as necessary to alleviate the destruction to our City. The detailed examinations by both the Grand Jury Charge Committee of January 1994 and the more recent charge of the September 2002 jury have been read and scrutinized for pertinent ideas and in order to publish an up-to-date report on the current strategies available for this fight.

The Grand Jury Charge Committee's findings are the following:

- Provide a continuum of care for substance abusers
- Divert individuals into treatment rather incarceration
- Make use of criminal citations rather than arrest for certain crimes
- Revisit the idea of regulated distribution

## **I. Establish a Continuum of Care for Substance Abusers in Baltimore City**

A continuum of care refers to a range of holistic support services to augment recovery such as GED training and testing, literacy classes, life-skills training, parenting classes, job readiness and placement, housing assistance, child care, sexual/emotional/domestic abuse counseling, anger management, and mentoring programs. Research supported by the National Institute on Drug Abuse, as well as the experts in the community with which we spoke, point to holistic treatment in a therapeutic community as the most successful way to obtain recovery.<sup>xxv</sup> A therapeutic community is a drug-free residential setting, providing a full range of services to help individuals learn and assimilate social norms and develop more effective socialization skills.<sup>xxvi</sup> A therapeutic community promotes healthy living and self-sufficiency by providing access to drug treatment, career training, education, housing, and family and community support services.<sup>xxvii</sup>

The treatment centers we spoke with told us that this was the most effective way to treat substance abuse, and were adamant about the need to treat the whole individual. Treating the addiction alone is often insufficient to affect meaningful behavior and lifestyle changes. Other problems that contribute to addictive behaviors may likewise require attention. Therefore a holistic approach is needed to respond to those additional needs.

In addition to having high success rates for the treatment of substance abuse, studies have shown that holistic therapeutic communities reduce recidivism rates. For example, a study in Delaware found that inmates were significantly more likely to be drug-free and arrest-free if they had completed treatment than were those inmates who had completed the usual work release.<sup>xxviii</sup> Another study in San Diego found that inmates who had no treatment had a 50% re-incarceration rate in the 12 months following prison release versus just 8% for those that had completed treatment in a therapeutic community.<sup>xxix</sup>



It is estimated that in Baltimore each untreated drug addict is costing the city \$30,000 a year.<sup>xxx</sup> Therefore, the ultimate value of creating a continuum of care will be more than worth the initial expense of such an investment..

## **II. Divert Nonviolent Drug Offenders to a “Continuum of Care” Rather than Incarceration**

Due to a shift in crime fighting strategies that called for more arrests and incarcerations, especially for drug offenders, the prison population in Baltimore has grown tremendously. Between 1980 and 2001, Maryland’s prison population has tripled, from 7,731 to 23,752.<sup>xxxi</sup> During the 1980s and 1990s, Maryland’s per capita state spending on corrections grew by 100%,<sup>xxxii</sup> and during the last decade Maryland has opened five new prisons.<sup>xxxiii</sup> Governor Ehrlich’s proposed 2003 budget contained the largest prison expansion in Maryland in a decade, including \$92.1 million for new correctional facilities spending.<sup>xxxiv</sup> This is during a period when the state faces a \$1.7 billion deficit.<sup>xxxv</sup>

The majority of nonviolent substance abusers in Baltimore’s prisons don’t have the opportunity to get the full range of services that appear to be necessary for full recovery. The Maryland Department of Corrections does operate several programs that address substance abuse problems, however relatively few inmates are admitted into these programs. For example, in 2001 only 3% of inmates were admitted into the Residential Substance Abuse Treatment program.<sup>xxxvi</sup> Similarly, only 6% of female inmates were admitted into the Women’s Intensive Treatment program.<sup>xxxvii</sup> And even if addicts are getting help in breaking substance abuse, those in penal institutions aren’t afforded the full range of services that appear to be key for full recovery. In 2001, only 17% of inmates were involved in educational or vocational programs offered by the Maryland Division of Corrections.<sup>xxxviii</sup> The larger percentage of inmates don’t benefit from the types of services that appear to be so critical. Without providing the services that individuals need to make life changes, we can’t expect to break the revolving door of addiction and repeated criminal behavior.

These facts support the idea that prison reform, including using treatment rather than incarceration, is an option worth undertaking. This would free up monies that could be used to provide care to substance abusers through a range of programs in Baltimore City. As noted above, the costs of residential drug treatment may be as low as one-fourth of the costs of simply housing an inmate in a penal institution.

Advocates of alternatives to incarceration, including the Justice Policy Institute and some members of the General Assembly, are proposing another option to help the state address its deficit. They have proposed reducing the prison population, as a handful of other states have done since 2000, by eliminating ineffective and inefficient corrections policies that inflated inmate numbers in the 1980s and 1990s.<sup>xxxix</sup> Specifically, on February 5<sup>th</sup>, Delegate Salima Marriott (D-40<sup>th</sup> District) introduced four bills before the House of Delegates designed to “safely reduce our prison population while addressing our fiscal concerns.”<sup>xl</sup> The four bills are as follows:

House Bill 580 – Increase the state tax rates for alcoholic beverages in Maryland for distilled spirits, wine, and beer to provide additional funding for programs providing alternatives to incarceration for drug offenders (fiscal years 2004-2008)<sup>xli</sup>;

House Bill 581 – Repeal some of the minimum penalties for certain crimes involving specified controlled dangerous substances<sup>xlii</sup>;

House Bill 582 – Grant parole to an inmate who meets specified criteria for purposes of participating in an appropriate substance abuse treatment program. Require the Department of Corrections to pay the equivalent of 50% of the cost of the inmate’s remaining sentence in the form of a voucher to the substance addiction treatment program<sup>xliii</sup>; and

House Bill 516 – Allow a person who is serving a term of confinement for burglary or daytime housebreaking that includes a mandatory minimum sentence to apply for and receive a sentence review.<sup>xliv</sup>

Delegate Marriott also requested that a study of the state prison system be conducted by the Justice Policy Institute. This Institute is a research organization that studies prison policy. The report entitled “Cutting Correctly in Maryland” was released on February

21<sup>st</sup> of this year and discusses the budget deficit problem facing Maryland, the state's sentencing structures and prison costs, and how the prison population could be significantly cut without sacrificing the public safety. The report was written by renowned criminal justice analyst Judith Greene and Timothy Roche, the executive director of the Justice Policy Institute.

The primary recommendations of the report are that the state abolish mandatory minimum sentences for drug offenders, divert drug addicted nonviolent offenders to treatment programs, reform the parole system to function more efficiently, and postpone new prison construction until the state studies the potential cost savings of these reforms.<sup>xlv</sup> Even though the state of Maryland has no data regarding the savings, the report detailed the savings of other states including Texas, Michigan, Ohio, and New York.<sup>xlvi</sup> In these states, similar reform measures have cut tens of millions of dollars from corrections budgets.<sup>xlvii</sup> And specifically in Ohio, there has been a reduction of prison population of about 4,000 beds and a savings of \$40 million just by closing one prison.<sup>xlviii</sup> According to Greene, Maryland could possibly "save tens of millions in budget, and hundreds of millions over time."<sup>xlix</sup>

We agree with the Justice Policy Institute's recommendations and believe that expansion of Drug Treatment Court is one of the ways that they could be implemented. Currently Baltimore makes use of Drug Treatment Court to combine the threat of incarceration with the promise of therapeutic help. Those who are offered Drug Court and who chose treatment over jail sign a "contract" with the court and are placed on probation. They promise to stay drug-free and undergo treatment dictated by the court. Offenders are held strictly and immediately accountable for their behavior through a variety of incentives and escalating sanctions. As of 2001, only 11% of drug court graduates were convicted of a subsequent crime.<sup>1</sup> The re-arrest rate was one-third that of those who were not given or rejected the drug court option.<sup>li</sup>

However, the Drug Treatment Court is currently limited to approximately 750 slots, 450 in the Circuit Court and 300 in the District Court.<sup>lii</sup> More importantly, it has been

estimated that approximately 50% of the prison population could benefit more from treatment than from incarceration.<sup>liii</sup> We fully support the September 2002 Grand Jury Charge Committee's recommendation to widely expand the number of slots available for Drug Treatment Court. It has been estimated that to expand Drug Treatment Court to 1200 slots would require approximately \$2 million per year in additional funding.<sup>liv</sup> However, the December 2002 graduating class of about 40 clients saved approximately \$1.8 million in jail costs, factoring in realistic sentences and parole time.<sup>lv</sup> Considering these "saved" costs, and the reduced recidivism rates, any initial costs would more than pay for themselves over time. In fact, a recent study shows that the savings would occur in the first year. It is estimated that not treating 1,000 addicts over a 12 month period will generate \$3,214,200 of illegal income due to an estimated 63,600 days of crime.<sup>lvi</sup> Quality of life for Baltimoreans would likely increase because Drug Treatment Court can be thought of as a crime prevention program. Thus, spending money on treatment has been shown to reduce future crime, and benefits all those in the offenders' communities.

Because the population of individuals who could benefit from treatment rather than incarceration is so large, an alternative that could be used along with an expanded Drug Treatment Court is direct and mandatory sentencing to treatment similar to California's Proposition 36 that was passed in 2000. California law requires probation with treatment for all nonviolent drug offenders until their third conviction, and then limits incarceration to a maximum of 30 days.<sup>lvii</sup> At the time of passage, all individuals serving sentences in jail were released and placed on probation subject to the same conditions.<sup>lviii</sup> California based its legislation on Arizona's Drug Medicalization, Prevention, and Control Act of 1996 which diverted non-violent drug offenders into treatment and education services rather than incarceration.<sup>lix</sup> After 4 years, this program had already saved Arizona state taxpayers millions of dollars, and is helping more than 75% of program participants to remain drug free, resulting in safer communities.<sup>lx</sup>

One of the main differences between an approach similar to Proposition 36 and Drug Treatment Court is the intensity of judicial supervision. In California, probation officers prepare quarterly reports on clients,<sup>lxi</sup> compared to more frequent progress hearings that

are held in Drug Treatment Courts.<sup>lxii</sup> We propose that Maryland adopt a program similar to those successfully used in Arizona and California, and that this program be used for the first and second offenses of nonviolent individuals. If a third offense is committed, then the more intensive Drug Treatment Court could be used. By using a program like Proposition 36, the need to expand Drug Treatment Court would be reduced, and because this is a less costly alternative, the need for additional monies would also be reduced.<sup>lxiii</sup>

Further, again we recommend that the treatment used be a continuum of care in a therapeutic community rather than simply drug detoxification. Some of the monies that would be saved by not increasing the number of beds in our penal institutions could be used to support publicly-funded “one-stop-shop” facilities. By a one-stop-shop we mean a single location that contains the variety of services individuals need to recover from substance abuse and make the transition back into society. What is needed are large buildings with the layouts to allow for living quarters, large group settings, and a host of other essential recovery-related programs such as on-site mental health counseling, family reunification activities, hospice care for individuals with AIDS, workforce development initiatives, and optional religious activities. Providing for a centralization of services will increase efficiency and reduce the need for transportation to different facilities that are spread out around the city. Existing buildings, such as vacant school buildings and vacant stretches of homes on city blocks, could be rehabilitated to create such spaces. In fact, individuals currently in Drug Court could provide “sweat-equity” to help with the rehabilitation and creation of these facilities.

The evidence shows that from both an economic and public safety standpoint, the choice between prison and holistic substance-abuse treatment should be an easy one.<sup>lxiv</sup>

### **III. Make Use of Criminal Citations Rather than Arrests for Certain Offenders**

While expanded Drug Treatment Court and mandatory sentencing to treatment hold great promise, other alternatives would perhaps be even more beneficial for certain segments

of the population. As it currently stands, people who are buying drugs for personal use are put in jail for at least some time, as they go through Central Booking, before they go to court.<sup>lxv</sup> And then in the District Court a large percentage of these cases eventually get dismissed.<sup>lxvi</sup> This is a terrible waste of resources that clogs the system unnecessarily.

An alternative to traditional prosecution for these abusers is to write them criminal citations. This would divert some individuals completely out of the court system to a different treatment modality. This could prevent individuals from having a conviction on their record that will haunt them for the rest of their lives and restrict them from being a fully productive member of society. A criminal history creates a barrier to employment, housing, eligibility for food stamps and other forms of welfare, eligibility for government grants/funds for higher education, and can limit opportunities for civic participation.<sup>lxvii</sup>

Citations could result in civil fines, supervised community service, and/or other forms of restitution. The citation could specify a time and place where the individual needs to report to get their assignments. Such assignments could include various types of community service that is much more constructive than the simple warehousing of an individual in jail. Community service could involve useful activities to help make Baltimore a safer place, such as cleaning up vacant homes that are now being used as stash houses or shooting galleries. These individuals could provide some of the “sweat equity” we mentioned above in creating one-stop-shops that would provide holistic treatment. This work could also motivate individuals, build their self-esteem, and provide training for a future job. In contrast, nearly one-third of all Maryland state prisoners (31%) were classified as idle, which denotes a lack of participation in programming or work.<sup>lxviii</sup>

By not placing individuals buying drugs for personal use into the penal institution, we would also avoid the obstacles to re-entering society that prisoners face. A prisoner re-entering society faces the significant challenge of finding employment and reconnecting with his or her family. Prisoners are typically not well prepared in our penal institutions for reintegration.

Citations could also act as a gateway into the public health system as vouchers to be used for obtaining rehabilitation, drug treatment, and the whole continuum of care that is needed to holistically treat the individual. In addition to civil fines that could be associated with some citations, the monies that are saved by not using the typical prosecution mode could be re-invested in treatment instead. Even if up-front costs are raised, this type of treatment is ultimately less costly down the road. By maintaining individuals in the community, and providing them the services they need to become fully functioning members of society, future costs of recidivism would be reduced.

By reducing the money and time associated with prosecution, the criminal justice system may be able to invest more resources into preventative measures such as programs in the educational systems and/or mentoring of youth. Perhaps some individuals who are near to the completion of the community service required by their citation, and who have successfully reached the completion of holistic treatment, could be provided training in mentoring. These individuals could then be hired to be mentors to at risk youth to help teach our children self-esteem and motivation to be productive in their lives. In speaking with various experts in substance abuse, we found that making use of recovered addicts is often particularly beneficial to those who are attempting to likewise make life changes.

Another preventative measure that could be funded with some of the saved costs of prosecution and incarceration would be to increase the use of parks and recreation centers. As with a mentoring system, successfully recovered addicts could find employment in these centers.

The use of citations could provide more constructive use of recovering addicts through community service, free up resources associated with arresting and prosecuting individuals, provide addicts with treatment rather than incarceration, and help support various programs that would make for a safer environment for the whole community of Baltimore.

The Grand Jury Charge Committee recommends that a university study be conducted to look more deeply into the use of citations as an alternative to incarceration. Such a study is required to gain a greater understanding of the feasibility of this idea and to determine the process that would be required to make it operational.

#### **IV. Revisit the Idea of Regulated Distribution**

The above ideas are to help create a safer and healthier environment through transforming the lives of individuals rather than simply locking them in jail. But the drug problem in Baltimore is not just created by individuals who are addicted to drugs, it is also caused by individuals who have become addicted to the money associated with the drug trade. A continuum of care for substance abusers will help diminish the demand for drugs, but the supply side of the “market” will still need to be addressed. Because of the huge profit involved in the drug trade, those individuals are responsible for the majority of violence we are faced with in Baltimore, and neighborhoods are being held hostage. The majority of homicides in the city are due to arguments over territory and/or fights over shortages in drugs and monies received through their sale.<sup>lxix</sup> By taking the profit out of the drug trade, there would be a direct effect on violent crime, property crime, and quality of life for citizens of Baltimore. Conventional modes of attacking the drug problem simply aren’t working. The distribution of drugs is so profitable, we are fighting the battle with one hand tied behind our backs.

We believe that it is now time to revisit the idea of regulated distribution. Regulated distribution is not the same thing as advocating drug use, nor is it the same thing as legalization. Regulated distribution begins with the recognition that addiction is a continuing, progressive illness rather than a crime. Regulated distribution refers to licensed distribution of drugs to individuals for personal use. The government would set up a regulatory regime, controlling the price, distribution, and purity of addictive substances, which it already does with prescription drugs.<sup>lxx</sup> Unlicensed distribution would remain illegal.



The regulatory regime would also pull addicts into the public-health system. Addicts could be treated through the continuum of care we have advocated already. Children would find it harder, not easier, to get their hands on drugs.<sup>lxxi</sup> Currently, it is often easier for minors to buy controlled dangerous substances than to buy alcohol. Similar age restrictions to those for alcohol could be placed on the distribution of other drugs. Most importantly, regulated distribution would take the profit out of drug trafficking, and it is the profits that drive the violent crimes.

The lesson has already been learned with alcohol prohibition. In the 1920s, we tried to engineer an alcohol-free society, and while the rate of alcoholism did go down, we ended up with huge criminal enterprises, government corruption, people dying of consuming “bad” alcohol, children lured into organized crime and random violence that took the lives of countless innocent people. The costs of making alcohol illegal dramatically outweighed the benefits. By allowing for regulated distribution of alcohol, the associated crime was eliminated. Alcohol-related crimes that caused or could potentially cause harm to others, such as driving while drunk, remain a crime. Similar restrictions could be put in place for the use of other substances.

We do not advocate the distribution of drugs to people who are not already physically or psychologically addicted. Individuals would have to register for the purchase of drugs, similar to those that currently register for methadone or for the needle exchange program. At the time of implementation, individuals would have to get proof of their use of drugs, either through previous registration, or through a positive test for drugs from either a clinic or personal physician. Registration makes it easier to offer services to substance abusers. An information management system would need to be created to track the distribution and to ensure that the quantities distributed are for personal use only. Registered individuals could get a prescription from a clinic or personal physician that could be filled at a pharmacy just like is currently done with prescription drugs.

There are already government-run, publicly supported, or taxed programs that promote activities that some citizens might consider morally inappropriate such as gambling

(Lotto), drinking (alcohol), and smoking (tobacco). By using this sort of intervention, the government offered a control of the chaos associated with illegal activities such as numbers running and bootlegging.

An example of a program that is currently in place that is very analogous to regulated distribution is the methadone program. The methadone program provides addictive substances to individuals. Similarly, the needle exchange program has successfully been in place for years. Regulated distribution is not that large of an extension of these concepts.

While regulated distribution probably would not dry up illegal drug-trafficking entirely, taking the profit out would greatly reduce it. This would allow law enforcement to concentrate on the highest echelons of drug-trafficking enterprises.<sup>lxxii</sup> Similarly, prison over-crowding would be reduced, allowing for longer sentences served by violent criminals. Regulated distribution would save monies currently used for prosecuting addicts, and further, the drugs distributed by the government could be taxed as tobacco and alcohol are currently. This money could be redirected into the public health system, along with other programs that are beneficial to prevent the underlying causes to substance abuse such as education and job training. We could then address the root problems to the substance abuse epidemic.

The Grand Jury Charge Committee recommends that a university study be conducted to look more deeply into regulated distribution. Such a study is required to gain a greater understanding of the feasibility of this idea and to determine the process that would be required to make it operational.

## **V. Conclusions**

In answering our charge, we realize that it is now time to rethink an old war. To continue on the path of trying to arrest our way out of this epidemic will not work. Alternatives will lead us in the right direction.

We have explored ways to make this a safer and healthier community and proposed alternatives that could make the control of substance abuse more effective than it currently is. Any of these alternatives not only provide for a safer community, but also free up resources that can be re-invested in our communities. For example, monies can and should be spent on education, truancy programs, recreation centers, libraries, soup kitchens, transitional housing for the homeless, creating safe havens for children, and any other support that can be given to community activists to fund the needs of their community. In summary, our recommendations are:

- 1) Provide a continuum of care for substance abusers,
- 2) Divert individuals into treatment rather than incarceration,
- 3) Make use of criminal citations rather than arrest for certain crimes, and
- 4) Revisit the idea of regulated distribution.

We believe that getting substance abusers into the public health system could be used to wean them off drugs through registered controlled distribution, while offering a continuum of care that people would need to turn their lives around and become productive members of society.

This Grand Jury charge committee recommends that a report be written by subsequent Grand Juries to disclose the current conditions of the fight against substance abuse. The problem will not vanish after our duties as Grand Jurors have ended. Therefore, each Grand Jury should be responsible to take an active, conscientious effort to evaluate the existing strategies. Perhaps the continuation and development of new ideas and concepts will free our city of the economic, societal, legal, and emotional bondage created and sustained by the presence of drugs.

The Grand Jury Charge Committee also recommends that a university study be conducted to look more deeply into the alternatives we have suggested. Such a study is required to gain a greater understanding of the feasibility of these ideas and to determine the process that would be required to operationalize any of these alternatives.

We believe that the public needs to be engaged in this conversation. Without public discussion of these issues by the citizens of Baltimore, meaningful change is unlikely.

We pose these questions to the citizens of Baltimore:<sup>lxxiii</sup>

- 1) Do you think that we have won the war on drugs?
- 2) Do you think we are winning the war on drugs?
- 3) Do you think that doing more of the same for the next 10 years will win the war?

Insanity is often defined as repeating the same actions and expecting different results.

Will we be willing to consider a different approach?

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<sup>i</sup> The Honorable Judge Althea Handy, Grand Jury Charge, January Term 2003

<sup>ii</sup> Dr. Peter Beilenson, M.D., M.P.H., Baltimore City Health Department, Commissioner of Health. Interview with Grand Jury Charge Committee, April 8, 2003

<sup>iii</sup> Erin Sullivan, "Open-Door Policy," The City Paper, March 5, 2003

<sup>iv</sup> Baltimore Circuit Court Grand Jury Charge Committee Report, under the charge of Judge Edward R.K. Hargadon, September Term 2002

<sup>v</sup> Nancy G. La Vigne, et al, "A Portrait of Prison Reentry in Maryland," Urban Institute Justice Policy Center, March 17, 2003

<sup>vi</sup> Id

<sup>vii</sup> Grand Jury Charge Committee Report, September term 2002

<sup>viii</sup> Grand Jury Charge, January term 2003

<sup>ix</sup> Id

<sup>x</sup> Grand Jury Charge Committee Report, September term 2002

<sup>xi</sup> Baltimore City Police Department, Homicide Unit. Grand Jury Tour, January 24, 2003

<sup>xii</sup> Judith Greene and Timothy Roche, "Cutting Correctly in Maryland," The Justice Policy Institute, February, 2003

<sup>xiii</sup> La Vigne, March 17, 2003

<sup>xiv</sup> Id

<sup>xv</sup> Greene, February 2003

<sup>xvi</sup> Id

<sup>xvii</sup> Id

<sup>xviii</sup> Maryland Reception Diagnostic and Classification Center, Maryland Department of Public Safety and Correctional Services, Division of Correction. Grand Jury Tour, February 12, 2003

<sup>xix</sup> Reverend Johnson, Recovery King II, Executive Director. Interview with Grand Jury Charge Committee, March 6, 2003

<sup>xx</sup> Greene, February 2003

<sup>xxi</sup> Id

<sup>xxii</sup> Grand Jury Charge Committee Report, September term 2002

<sup>xxiii</sup> Greene, February 2003

<sup>xxiv</sup> Grand Jury Charge, January term 2003

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- xxvi Id
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- xxx Greene, February 2003
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- xxxiv Greene, February 2003
- xxxv Id
- xxxvi La Vigne, March 17, 2003
- xxxvii Id
- xxxviii Id
- xxxix Sullivan, March 5, 2003
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- xlii Delegate Salima Siler Marriott, House Bill 581, "Controlled Dangerous Substances – Minimum Penalties – Repeal," February 5, 2003
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- xliv Delegate Salima Siler Marriott, House Bill 516, "Burglary and Daytime Housebreaking – Mandatory Sentences – Retroactive Effect," February 5, 2003
- xlvi Sullivan, March 5, 2003
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- xlvi Id
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- xlvi Id
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- lii Al Philips, The State's Attorney's Office for Baltimore City, Assistant State's Attorney, Drug Treatment Court Division. Interview with Grand Jury Charge Committee, April 7, 2003
- liii Beilenson, April 8, 2003
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- lv Leonard Kuentz, Office of the Public Defender, Supervising Attorney, Drug Treatment Court Division. Interview with Grand Jury Charge Committee, April 7, 2003
- lvi "Steps to Success: Baltimore Drug and Alcohol Treatment Outcomes Study", University of Maryland, Johns Hopkins University, and Morgan State University commissioned by Baltimore Substance Abuse Systems, Inc., January 24, 2002
- lvii National Families in Action: A Guide to Drug-Related State Ballot Initiatives, Summary of California Proposition 36 – The Substance Abuse and Crime Prevention Act of 2000
- lviii Id
- lix Id
- lx Id
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- lxii Philips, April 7, 2003
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- lxiv Greene, February 2003
- lxv Detective Lieutenant Jim Cappuccino, Baltimore City Police, Narcotics Division. Interview with Grand Jury Charge Committee, March 7, 2003

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- <sup>lxvi</sup> Kurt Schmoke, Dean of Law, Howard University. Grand Jury presentation, March 28, 2003  
<sup>lxvii</sup> La Vigne, March 17, 2003  
<sup>lxviii</sup> Id  
<sup>lix</sup> Homicide Unit, January 2003  
<sup>lxx</sup> Kurt Schmoke, "War on Drugs," National Review, Volume XLVIII Number 2, February 12, 1996  
<sup>lxxi</sup> Id  
<sup>lxxii</sup> Id  
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**Penal Committee Report  
Grand Jury  
January Term 2003**

**As required by law, the Grand Jury for the Circuit Court for Baltimore City shall according to Maryland Annotated Code, Article 27, Section 703 and 703.5: "{...} At least once each calendar year {...} inquire into the conduct and management of each of the State Correctional Institutions or Correctional Facilities within the jurisdiction of the court and to make presentations of all offenses and omissions of any person in or related to said state correction institutions or facilities and {...} at least once each calendar year visit the jail and inquire into its condition, the manner in which it is kept and the treatment of the prisoners, and report their findings to the court."**

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In compliance with this law, the January 2003 term Grand Jury of Baltimore City Circuit Court visited five institutions: Baltimore Central Booking & Intake Center, Baltimore City Detention Center (BCDC), the Maryland Diagnostic & Classification Center, the Baltimore Pre-Release Unit and the Metropolitan Transition Center. The following contains our findings and recommendations based on our observations of these facilities.

**Central Booking and Intake Center**  
**March 19, 2003**

- Upon entrance of Central Booking, the Grand Jury found a clean, efficiently run facility.
- Some members noted that cells had 3 detainees each, making the cell overcrowded. It was also observed that detainees were resting or sleeping on the cement floor often next to toilets.
- The data system that facilitated the processing of detainees was running at peak performance.
- There was a concern among the Grand Jury on why there is a long delay for release of a detainee (sometimes up to 6 hours) after payment of bail.

**Baltimore City Detention Center**  
**March 19, 2003**

- The Detention Center was generally clean. Some areas were trashy. The cafeteria was clean but had an unpleasant odor.
- Juvenile detainees were segregated from the general population, identified by green overalls. Their school was located in the courtyard. There were new computers in use. Each class had sufficient books. The staff made a request for a new building with more space.
- The Detention Center has a new sprinkler system.

**MD. Diagnostic & Classification Center**  
**February 12, 2003**

- The Grand Jury members were impressed by the layout of this facility. It is basically “one-stop shopping” for inmates who have just been sentenced to consult case workers, medical staff, and legal help.
- The cell areas were clean.
- There was some concern in one office where inmate records were kept. A worker was updating inmates’ records. There were stacks of folders on several desks. Some Grand Jurors felt that could increase a chance of records being lost or damaged.

**Baltimore Pre-Release Center**



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**February 12, 2003**

- This building was clean and well lit.
- Members of the Grand Jury made the observation that the dorm area was over crowded. Bunks were spaced close together, giving inmates very little personal space.
- Warden Conroy stated that there has been an increase in escapes because punishment by the judicial system is a “slap on the wrist”.
- The Grand Jury has an excellent catered lunch in the cafeteria.

**Metropolitan Transition Center**  
**February 25, 2003**

- This facility has both the oldest prison wing and the newest wing to house inmates.
- The Grand Jury toured both. It looks like some improvements were made on the old cellblock with fans to circulate air and a somewhat light shade of paint to give the area a brighter look. The new D block has newer dorm style cells. Mr. Stritch, the Public Information Officer and our tour guide, stated inmates had the option to have a cell in the old cellblock or a bed in the new wing. He said some inmates liked having their own space, and didn't like sharing space with others.
- The medical building was well maintained. The office was clean and properly staffed.

**General Comments/Recommendations**

- The Administration in general seemed to operate functionally.
- Objectives were clearly stated.
- The Transportation Department received many positive comments.
- All staff acted very professional during all of our tours.
- There were positive comments regarding the Acupuncture Program. The Grand Jury would like to see more of these programs to help cure drug addiction.
- The Grand Jury makes the following recommendations:
  - 1) With the increase in capital spending for prison enhancements, use that money to fix the most common problem found by the Grand Jury in all the facilities: poor heating, cooling, and air quality. Also use the money to further expand and update the current computer network. In addition, fund programs to reduce guard turnover in particular Staff Professional Development Programs.
  - 2) More inmates should be in prison uniforms.
  - 3) Change the tour to provide more safety to the Grand Jurors with less imposition on the privacy and space of the inmates.
- In conclusion, the Grand Jury found these tours very informative. One Penal Committee member stated he was employed by the Los Angeles Penal

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**Department. He is very impressed on what he observed at all the facilities in Baltimore.**

**Respectfully submitted,**

**Lance V. Beasman, Chairman  
Penal Committee**

**Committee Members**

**John Furst**

**Anthony Parker**